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Filed : November 7, 2001

REMARKS

Claims 10, 13 and 17 were cancelled previously without prejudice, and no further amendments have been made in this paper. Accordingly, by this paper Claims 1-9, 11, 12, 14-16 and 18-33 are presented for further examination.

In the Office Action mailed July 22, 2004, the Examiner re-asserted his rejection of Claims 1-9, 11, 12, 14-16 and 18-32 under 35 U.S.C. § 103(a) as being unpatentable over Margrey et al. (U.S. Patent No. 6,192,320) in view of Gordon (U.S. Patent No. 6,476,907). Claim 33 has also now been included in this rejection. The Examiner's comments regarding this rejection are substantially identical to the comments explaining the basis for rejection presented in the previous Office Action mailed October 1, 2003. Accordingly, Applicant respectfully incorporates by reference herein the remarks presented in response to this rejection as presented in the Amendment mailed March 31, 2004 in the above-identified matter.

In his Response to Applicant's arguments in the Office Action mailed July 22, 2004, the Examiner states that "the Applicant argues that Godon (sic) does not teach using bio-disc information and that Margrey et al. does not teach a bio-disc drive." Applicant respectfully submits that this is a mischaracterization of Applicant's argument. Applicant's Amendment stated that "Gordon does not teach, nor does it suggest, the provision on a bio-disc of bio-disc information, which may be used to verify authenticity of the bio-disc, as is accomplished by the structure of independent Claims 1 and 19, and by the method as defined in independent Claims 7, 11 and 15." (Emphasis added).

The Examiner goes on to say that "Gordon's bio-disc drive is controlled by a computer which obviously has bio-disc information (Gordon 41) . . .". Whether or not the computer has bio-disc information is of no consequence. Claim 1, for example, defines "a bio-disc including bio-disc information . . .". Similarly, Claim 7 defines the step of "obtaining bio-disc information from the bio-disc . . .". This bio-disc information is included on the bio-disc. Thus, whether or not the computer of Gordon has bio-disc information is not relevant to whether this information is included on the bio-disc. There is no teaching or suggestion of this feature in Gordon.

The bio-disc information identifies the bio-disc as an authentic, authorized, or approved bio-disc meeting certain standards. Having this information, the processing and control software on the server may be enabled to verify whether the bio-disc is authorized. Thus, Claim 1 also defines a node "configured to evaluate the bio-disc information so as to verify authenticity of the

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bio-disc.” Likewise, Claim 7 defines the act of “authenticating the bio-disc information at the server . . .”.

In his Response to Applicant’s arguments, the Examiner also noted that “authenticity is verified because computers tend to have log-on passwords.” Once again, whether or not computers may be using log-on passwords is immaterial to the claim limitations at issue. A log-on password is used to permit a computer user to have access to restricted features of the computer system. The password may thus be used by anyone knowing the password to access those features. In contrast, the bio-disc information is not used to permit access to features of the computer, but rather is used by the computer to verify authenticity of the bio-disc. After authenticity is verified, subsequent processing of the biological sample on the bio-disc is allowed. (*See Application*, page 14, lines 1-2). Applicant submits that this authentication feature as set forth in Applicants’ claims 1 and 7, is substantially different from that of a user who inputs a password as part of a procedure for accessing features of a computer. Furthermore, there is neither any teaching or suggestion in Gordon of such a feature.

In view of the above, Applicant respectfully submits that Gordon neither teaches nor suggests at least the claim limitations as indicated above. Similar limitations are included in independent Claims 11, 15 and 19. Furthermore, Applicant notes that Margrey et al. neither teaches nor suggests the use of a bio-disc, or related bio-disc devices including, for example, a bio-disc drive. Thus, Margrey et al. also neither teaches or suggests at least the features discussed above, as presented in the independent Claims 1, 7, 11, 15 and 19. Accordingly, Applicant respectfully submits that Gordon and Margrey et al., taken individually or in combination, neither teach nor would they have made obvious the subject matter of independent Claims 1, 7, 11, 15 and 19. Furthermore, since Claims 2-6, 8, 9, 12, 14, 16, 18 and 20-32 each depend from one of independent Claims 1, 7, 11, 15 or 19, Applicant submits that these claims also are patentable over the Gordon and Margrey references, taken individually or in combination.

In his Response to Applicants’ arguments, the Examiner also noted that “one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.” Applicant submits that the response to the Office Action mailed March 31, 2004, did not merely “attack references individually” to overcome the obviousness rejections. Rather, Applicant pointed out the lack of teaching or suggestion in the references

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individually, so that it is made clear that the combination of the two references also neither teaches nor suggests the referenced claim features. Thus, in Applicant's Amendment mailed March 31, 2004, Applicant noted that "since Margrey neither teaches nor suggests the use of bio-discs, and since Gordon neither teaches nor suggests an apparatus or method by which bio-disc information is either provided or evaluated to verify authenticity of the bio-disc in the system, Applicant submits that these references, whether taken individually or in combination, do not teach or suggest such an apparatus or method as defined in Applicant's independent Claims 1, 7, 11, 15 or 19." (Emphasis added). Accordingly, although Applicant has described the references individually, Applicant again submits that the combination of the Gordon and Margrey et al. references does not provide any teaching or suggestion which would have rendered the claims presented herein obvious.

Applicant also notes that independent Claim 33 has been rejected in the Office Action mailed July 22, 2004, based upon the arguments of the Examiner presented with respect to the other claims in the preceding Office Action mailed October 1, 2003. However, Applicant notes that independent Claim 33 includes features which were not addressed in the Examiner's rejection in the presently pending Office Action. Thus, Applicant reiterates the discussion of Claim 33 which was presented in Applicant's Amendment filed March 31, 2004. In that Amendment, Applicant indicated:

Regarding that claim [Claim 33], Applicant notes that, among other things, the act of "accessing the test result in the server through a web page" comprises at least one feature which is neither taught nor suggested by the art of record. Applicant notes that in the Office Action, the Examiner commented regarding claims 14 and 16 that a web page was disclosed in Margrey at col. 6, lines 2-3. However, Applicant notes that at the indicated location, Margrey states that "[T]he network may also be the Internet, a local area network . . .". Applicant submits that the mere description of various types of networks, including the Internet, does not provide any teaching or suggestion as to the accessing of a test result in a server through a web page, in the context as presented in claim 33.

In view of the above, Applicant respectfully submits that the subject matter presented in independent Claim 33 defines subject matter which is patentable over the art of record. Furthermore, in view of the foregoing, Applicant respectfully submits that Claims 1-9, 11, 12, 14-16 and 18-33 are patentable over the art of record. Accordingly, Applicant respectfully

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submits that these pending claims are now in condition for immediate allowance and such prompt allowance of the same is respectfully requested.

CONCLUSION

The Applicant has endeavored to address all of the concerns of the Examiner in view of the recent Office Action directed to the above-identified application. Accordingly, amendments to the claims, the reasons therefor and arguments in support of the patentability of the pending claims are presented above.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. Any new claims presented above are of course intended to avoid the prior art, but are not intended as replacements or substitutes for any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.

In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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